

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

FEBRUARY 12, 2008

President Stephen Murphy called the meeting to order at 10:02 A.M. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were President Stephen Murphy, Dennis Hamilton, Wendy Hellum, Bob Foster and Paula Bridges. Board members absent were Ruthie Reynolds and Vice President David Murphy.

Staff members present were Robert Gribble, Executive Director; Adrian Chick, Staff Attorney; and Jimmy Gossett, Administrative Assistant.

ADOPTION OF AGENDA:

A motion was made by Mr. Bob Foster to adopt the agenda as presented.

Seconded by Ms. Paula Bridges

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Ms. Wendy Hellum to approve the minutes of the January 8, 2008, Board Meeting.

Seconded by Ms. Paula Bridges

Adopted by voice vote

RESIGNATION OF BOARD MEMBER:

Executive Director Gribble reported to the Board that Ruthie G. Reynolds, the board member representing the public, resigned from the Board effective February 9, 2008. Ms. Reynolds has recently accepted work on a project that requires much out of town travel.

LEGAL REPORT:

ADRIAN CHICK, STAFF ATTORNEY

1. Case No.: L07-FUN-RBS-2007083441
2. Case No.: L07-FUN-RBS-2007083461

3. Case No.: L07-FUN-RBS-2007083471

These complaints involve the alleged misidentification of cremated remains. Because the matter is pending in federal court, Legal requests that the matter be postponed until the pending litigation is concluded.

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

4. Case No.: L07-FUN-RBS-2007088291

The Complainant states that she met with a representative of the Respondent establishment and agreed to a price for funeral services and that the complainant would have 30 days to pay for the funeral. At 4:30p.m. on the day prior to the funeral, the Respondent contacted complainant's niece and informed her that there would be no service unless payment was received in full. The complainant also alleges that the Respondent advertises a complete funeral for \$995.00 but does not include the cost of burial.

The Respondent states that arrangements were not made with the complainant, but rather with the daughter. The daughter was told that the insurance company had 30 days to pay the funeral home in response to her statement that she believed there was burial insurance available. The Respondent was later told by the insurance representative that it was a benefit program for the children and not a burial policy. The Respondent included documents with his response that shows the family contact as the daughter on the release form as well as the authorization for embalming. The documentation also shows the daughter as the informant and the party who signed the statement of funeral goods and services. The statement of funeral goods and services indicates that payment is required prior to service being rendered.

Recommendation: Dismiss. No violation established.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Adopted by voice vote

5. Case No.: L07-FUN-RBS-2007086971

The complainant is a casket retailer that alleges the Respondent establishment has not paid for a casket that was delivered.

The Respondent indicates that financial difficulties have prevented the establishment from paying for the casket but that conditions are improving.

Recommendation: Dismiss. This is a breach of contract issue that should be addressed in civil court.

A motion was made by Ms. Paula Bridges to accept Counsel's recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

6. Case No.: L07-FUN-RBS-2007086501

An advertisement ran in a single issue of a newspaper which listed an unlicensed individual as a funeral director.

The Respondent establishment reported the mistake to the Board the following day and stated it was an accident that occurred as the result of miscommunication between the Respondent and the newspaper publisher. The publisher issued a written statement indicating that he falsely assumed the individual was a funeral director and mistakenly published the ad prior to receiving approval from the Respondent on the proof of the ad.

Recommendation: Letter of Warning.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Adopted by voice vote

7. Case No.: L07-FUN-RBS-2007089611

An inspection on December 12, 2007 revealed the following violations:

- FTC Rules – Casket price range was listed incorrectly on the General Price List.
- FTC Rules – Outer Burial Container Price List was listed incorrectly on the General Price List.
- FTC Rules – Immediate Burial price range incorrect.
- FTC Rules – Price for cloth covered casket incorrect.
- FTC Rules – Direct Cremation price range incorrect.
- FTC Rules – Casket Price List does not include alternative container for direct cremation.

- FTC Rules – Outer Burial Container Price List lacks description of all merchandise offered for sale.
- FTC Rules – Goods and Services contract for direct cremation does not list goods and services separately.
- TCA 62-5-306 – The current license for a funeral director was not available for inspection.

The Respondent submitted updated price lists.

Recommendation: Consent Order assessing civil penalty of \$350 and authorization for hearing.

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Ms. Paula Bridges

Adopted by voice vote

8. Case No.: L05-FUN-RBS-2005031361

This complaint alleges operation of an establishment without a valid establishment license and was first presented to the Board on February 28, 2006.

Recommendation: The Respondent establishment is no longer in operation and Legal requests permission to close this complaint.

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Ms. Paula Bridges

Adopted by voice vote

9. Case No.: L06-FUN-RBS-2006034881

This complaint alleges FTC violations and was first presented to the Board on November 14, 2006.

Recommendation: The Respondent establishment is no longer in operation and Legal requests permission to close this complaint.

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Ms. Paula Bridges

Adopted by voice vote

10. Case No.: L05-FUN-RBS-2005021881

11. Case No.: L05-FUN-RBS-2005021781

These complaints allege that cremated remains were commingled by the Respondent establishments. The matter was the subject of a civil suit, which resulted in an order of dismissal in circuit court.

Recommendation: Legal requests that these complaints be closed without further action.

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Adopted by voice vote

12. Case No.: L05-FUN-RBS-2005024531

This complaint was originally presented to the Board on September 22, 2005 for FTC violations and violations of the rules of operation. The Board assessed a civil penalty of \$2000 to be paid in four installments of \$500. The first installment was paid, but the remaining installments are unpaid.

Recommendation: Legal requests permission to close this complaint due to the establishment's extenuating circumstances and the complaint's age.

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

13. Case No.: L08-FUN-RBS-2008001341

This consumer complaint alleges that the Respondent establishment is being operated by an apprentice and not a licensed funeral director in charge. No other details were provided.

The Respondent denies that it has ever been operated by an apprentice. The Respondent also states that it is the establishment's policy to tell anyone who inquires by telephone about prices that they must come by the establishment and pick up a price list.

Recommendation: Letter of Warning regarding FTC requirement to provide pricing information to persons who call.

A motion was made by Mr. Dennis Hamilton to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Adopted by voice vote

14. Case No.: L07-FUN-RBS-2007089571

An inspection on December 11, 2007 revealed the following violations:

- FTC Rules – The General Price List lacks the required itemization for use of facilities and staff for memorial service.
- FTC Rules – Immediate burial price with minimum casket on the General Price List does not match price on the Casket Price List.
- FTC Rules – Immediate burial with 20 gauge steel non-sealing casket on the General Price List does not match the price on the Casket Price List.
- TCA 62-5-313(d) – A dressed and casketed body lacked a permanent identification device.

The Respondent states that the use of facilities and staff was itemized on the second page of the GPL but has now been added to the first page as well. The price of immediate burial with minimum casket was not on the list because they do not keep it in inventory but has now been added. The price on the GPL for immediate burial with 20 gauge steel casket was for a protective casket, but the non-protective price has been added to the list. Updated price lists have been submitted. The Respondent states that they were in the process of obtaining the social security number for the identification device.

Recommendation: Consent Order assessing a civil penalty of \$350 and authorization for hearing.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Ms. Bob Foster

Adopted by voice vote

15. Case No.: L07-FUN-RBS-2007089871**16. Case No.: L07-FUN-RBS-2007089861**

This complaint alleges that the Respondent establishment, not licensed in Tennessee, conducted a graveside service in Tennessee.

The Respondent sent a lengthy response indicating that he misunderstood the Board's position with regard to out of state funeral directors who conduct services in the State of Tennessee.

Recommendation: Consent Order assessing civil penalty of \$500 against the establishment and a Letter of Warning to the funeral director and authorization for hearing.

A motion was made by Ms. Paula Bridges to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Member(s) noted as voting to the contrary of the voice vote conclusion: Mr. Dennis Hamilton and Ms. Wendy Helling.

With two (2) affirmative votes and two (2) negative votes, President Steve Murphy asked for a roll call vote. It was recorded as follows:

Paula Bridges	Yes
Bob Foster	Yes
Dennis Hamilton	No
Wendy Helling	No
Steve Murphy	Yes

With three (3) affirmative votes and two (2) negative votes, the motion carried.

17. Case No.: L07-FUN-RBS-2007089591

An inspection on December 11, 2007 revealed the following violations:

- FTC Rules – Seven caskets in the selection room were priced inconsistent with the price listed on the Casket Price List.
- TCA 62-5-313(d) – A dressed and casketed body lacked a permanent identification device.

The Respondent corrected the FTC discrepancies immediately and has addressed the issue with the identification device with his staff.

Recommendation: Consent Order assessing civil penalty of \$350 and authorization for hearing.

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

18. Case No.: L07-FUN-RBS-2007087861

This complaint was filed by one establishment against another for non-payment of a bill. The complainant later stated the dispute has been resolved and that it no longer wishes to pursue the complaint.

Recommendation: Dismiss

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. Bob Foster

Adopted by voice vote

19. Case No.: L07-FUN-RBS-2007086291

The complainant went to the Respondent establishment to finalize arrangements for her recently deceased brother. The Respondent was informed that the decedent had an insurance policy, but neither the Respondent nor the complainant were aware of the amount of the policy at the time. A statement of funeral goods and services selected was completed and signed by both parties. Under "Terms", the SFGSS stated "MetLife Insurance". After discovering that the policy would not pay an amount sufficient to cover all costs, the Respondent offered a second SFGSS to the complainant that was less expensive. The complainant accepted this second SFGSS and was informed that the complainant would need to pay a difference of approx. \$277.00.

The Respondent believes the complainant was treated fairly and honestly.

Recommendation: Dismiss

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Ms. Paula Bridges

Adopted by voice vote

20. Case No.: L07-FUN-RBS-2007089601

An inspection on December 12, 2007 revealed the following violations:

- FTC Rules – Three caskets in the selection room were not listed on the Casket Price List and three other caskets in the selection room were priced inconsistent with the Casket Price List.
- TCA 62-5-306 – The current license of a funeral director was not available at the time of inspection.
- TCA 62-5-308 – The current license of an embalmer was not available at the time of inspection.

The Respondent states that the licenses had been mailed to the location but apparently were not posted, and the Casket Price List has been updated. Respondent states compliance is very important and wishes to state that the above discrepancies were corrected within a 24 hour period.

Recommendation: Consent Order assessing civil penalty of \$350 and authorization for hearing

A motion was made by Mr. Bob Foster to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

**ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**REPORT OF LICENSES ISSUED JANUARY 8, 2008 – FEBRUARY 11, 2008
BY EXECUTIVE DIRECTOR AS PER BOARD AUTHORITY**

LICENSEE REPORT:

Establishments

Tri-Cities Funeral Home, LLC
2630 Highway 75
Blountville, TN

New Establishment

Individuals

Christopher Ryan Mason
McMinnville, TN

Funeral Director / Embalmer

Michael Lee Frazer
Hendersonville, TN

Funeral Director / Embalmer

Jessica Edwina Ayers
Murfreesboro, TN

Funeral Director / Embalmer

Matthew Lynn Hensley
Greeneville, TN

Funeral Director / Embalmer

Rebekah Laura Smith
Oliver Springs, TN

Funeral Director / Embalmer

Justin Garrett Jeffers
Greeneville, TN

Funeral Director / Embalmer

Thomas B. Dobies
Holiday, TN

Funeral Director / Embalmer
Reciprocity

Ben McClary Crox, III
Cleveland, TN

Funeral Director

CLOSED ESTABLISHMENT REPORT:

Three establishments have reported closing since the last board meeting:

- **Stetzer Funeral Home, Whitesburg Chapel – 8207 East Andrew Johnson Highway, Whitesburg, TN**
- **Turner Funeral Home, Inc., Eugene Turner Memorial Chapel – 1101 Dodds Avenue, Chattanooga, TN**
- **Minority Mortuary – 2405 Elvis Presley Boulevard, Memphis, TN**

DISCIPLINARY ACTION REPORT:

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2007089581

Violation: FTC Rules and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$350 Civil Penalty

Complaint No. 2007089551

Violation: FTC Rules

Action: \$350 Civil Penalty

Complaint No. 2007085371

Violation: Aiding or abetting an unlicensed person to practice within the funeral profession

Action: \$500 Civil Penalty

Complaint No. 2007085411

Violation: Engaging in the practice of funeral directing during a time while license was invalid.

Action: \$250 Civil Penalty

A motion was made by Mr. Bob Foster to approve the Executive Director's request for the Board's acceptance of the above listed Consent Orders.

Seconded by Ms. Paula Bridges

Adopted by voice vote

OPEN COMPLAINT REPORT:

As of February 8, 2008, there were 90 open complaints.

CANCELLATION OF MARCH MEETING:

A motion was made by Ms. Paula Bridges to approve the Executive Director's request for cancellation of the March 11, 2008 meeting of the Tennessee Board of Funeral Directors and Embalmers.

Seconded by Ms. Wendy Helling

Adopted by voice vote

TENNESSEE FUNERAL DIRECTORS ASSOCIATION, INC.

The Tennessee Funeral Directors Association requested the Board of Funeral Directors and Embalmers hold their June 10, 2008 meeting at 1 P.M. at the Franklin Marriott Cool Springs in conjunction with their convention.

A motion was made by Ms. Paula Bridges to approve the request from TFDA.

Seconded by Ms. Wendy Helling

Adopted by voice vote

APPROVAL OF INDIVIDUAL LICENSES:

Upon motion, based upon the application record, the following individuals were approved for licensure:

David Wayne Mathes

Funeral Director

Johnson City, TN

**Joseph Franklin Riley
College Grove, TN**

Funeral Director

DENIAL OF INDIVIDUAL LICENSE:

Based upon the applicant's failure to demonstrate that the applicant meets or exceeds each of the minimum qualifications required for funeral directors in this state, the following individual was denied licensure by reciprocity:

**Gregory Dawson
Chattanooga, TN**

**Funeral Director
Reciprocity**

APPROVAL OF ESTABLISHMENT LICENSES:

Upon motion, based upon the application records, the following establishment was approved for licensure:

**Change of Name and Ownership
McKenzie Funeral Home
McKenzie, TN**

New Ownership: LLC

LEGISLATIVE BILLS:

An update on the legislative bills affecting funeral service was presented by Staff Attorney Adrian Chick and Executive Director Robert Gribble. Board President Steve Murphy requested Mr. Robert Batson, Executive Director of the Tennessee Funeral Directors Association, to address the Board on SB2705.

REQUEST TO ADDRESS THE BOARD:

Mr. Clarence E. (C. E.) Overstreet of Family Mortuary in Chattanooga addressed the Board regarding Gregory Dawson's appearance before the Board earlier in the meeting. No action was taken by the Board.

ADJOURN:

A motion was made by Ms. Wendy Hellum to adjourn.

Seconded by Ms. Paula Bridges

Adopted by voice vote

There being no further business, the meeting was adjourned by President Steve Murphy at 11:38 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director